



STATE OF INDIANA

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November 18, 2015

Mr. Fred A. Peters - #26498
Pendleton Correctional Facility
4490 West Reformatory Road
Pendleton, Indiana 46064

Re: Formal Complaint 15-FC-281; Alleged Violation of the Access to Public Records Act by the Indiana Parole Board

Dear Mr. Peters,

This advisory opinion is in response to your formal complaint alleging the Indiana Parole Board ("Board") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The Board has responded via Mr. Charles F. Miller, Esq. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 22, 2015.

BACKGROUND

Your complaint dated October 13, 2015, alleges the Indiana Parole Board violated the Access to Public Records Act by failing to provide the documents you requested.

On or about September 13, 2015, you submitted a public records request to the Board seeking information relating to your parole reinstatement or parole as well as several specific documents. After no response, you sent a subsequent request on September 29, 2015. As of the filing of your complaint, you still had not received an acknowledgement of your request.

The Board responded to your formal complaint contending it never received either of your public records requests. It also maintains that much of the information you seek is not in documented form as a public record.

ANALYSIS

The public policy of the APRA states that “a (p)roviding person with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The Indiana Parole Board is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Any person has the right to inspect and copy the Board’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14-3-3(a).

It is unfortunate the Board does not have a record of your request. This Office is well aware of the logistical issues faced by inmates navigating the prison mail system. I cannot definitely say one way or the other if your request was received by the Board, however, this would not be the first time prisoner mail failed to reach its intended recipient. Such is a casualty of the prison postal system. The Board has supplemented its response to the extent it can with a portion of the information you seek (parole revocation findings of fact and the parole warrant).

While the definition of public record found at Ind. Code § 5-14-3-2(o) is comprehensive, it does not include providing answers to questions if those answers are not in documented form. Several of the ‘records’ you seek are simply requests for answers to your specific questions. Documented information may or may not exist. For example, you seek a copy of the criteria for parole reinstatement, as well as why you were never considered for alternative sanctions. This is not a request for records but simply interrogatories to the Board.

The answers you seek would best be addressed either in the Court system or some other appellate process. The Office of the Public Access Counselor is not the administrative remedy to address your grievances with Board procedure or protocol.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the Indiana Parole Board has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be 'LHB', with a long, sweeping horizontal line extending from the bottom of the signature.

Luke H. Britt
Public Access Counselor

Cc: Mr. Charles F. Miller, Esq.